

AMENDED IN ASSEMBLY APRIL 9, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 1458

Introduced by Assembly Member ~~Villines~~ Duvall

February 23, 2007

An act to amend Section 85.2 of, and to add and repeal Section 670 of, the Harbors and Navigation Code, relating to boating.

LEGISLATIVE COUNSEL'S DIGEST

AB 1458, as amended, ~~Villines~~ Duvall. Boating: vessel operator certificates and funding.

(1) Existing law generally requires all money in the Harbors and Watercraft Revolving Fund to be available, upon appropriation, for expenditure by the Department of Boating and Waterways for various specified purposes related to boating. Existing law requires money in the fund, upon appropriation, also to be available to the Department of Parks and Recreation for the operation and maintenance of units of the state park system that have boating-related activities, and for boating safety and enforcement programs for waters within the jurisdiction of the Department of Parks and Recreation.

This bill would delete that requirement for money in the fund to be available to the Department of Parks and Recreation for those purposes, and would make conforming changes.

(2) Existing law regulates the operation of vessels, including imposing safety requirements on the operation of vessels, and authorizing the Department of Boating and Waterways (the department) to issue regulations establishing minimum safety standards for boats.

The bill, except as otherwise specified, would prohibit a person from operating a vessel *that is propelled by an engine, regardless of whether*

the engine is the principal source of propulsion, unless the person has in his or her possession a vessel operator certificate developed and issued by the department. The bill would make that requirement applicable, commencing in 2011, pursuant to a schedule imposing the requirement over time depending on a person's age. The bill would require the department to provide a lifetime certificate to a person who provides the department with proof that he or she has passed a vessel operator test approved by the department. On and after January 1, 2011, the bill would require a person who rents a vessel *that is propelled by an engine, regardless of whether the engine is the principal source of propulsion*, to require that the renter or operator of the vessel show proof of possession of the certificate, or, if the person does not have a certificate, would require the rental agent to provide him or her with a rental vessel operator certificate developed and approved by the department, and a specified map, if the person passes a specified course that the department would be required to develop or approve. A violation of the provisions related to the certificate would be an infraction: ~~Subject~~, *subject* to a fine depending on the number of violations. The money received by the state from those fines would be required to be deposited into the Harbors and Watercraft Revolving Fund to be expended, upon appropriation, as specified. By creating a new crime, the bill would impose a state-mandated local program.

The bill would impose other requirements on the department with respect to the certificate and would require the department, on or before December 31, 2015, and each year thereafter, to prepare a report regarding the total number of certificates issued and the correlation between certificates and the number of vessel accidents, injuries, and fatalities.

The certificate provisions would be repealed as of January 1, 2021.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 85.2 of the Harbors and Navigation Code is amended to read:

85.2. (a) All money in the Harbors and Watercraft Revolving Fund shall be available, upon appropriation by the Legislature, for expenditure by the department for boating facilities development, boating safety, and boating regulation programs, including for the purposes of Section 670, and for the purposes of Section 656.4, including refunds, and for expenditure for construction of small craft harbor and boating facilities planned, designed, and constructed by the department, as specified in subdivision (c) of Section 50, at sites owned or under the control of the state.

(b) *Notwithstanding Section 7550.5 of the Government Code, the Department of Parks and Recreation shall submit to the Legislature, on or before January 1 of each year, a report describing the allocation and expenditure of funds made available to the Department of Parks and Recreation from the Motor Vehicle Fuel Account in the Transportation Tax Fund attributable to taxes imposed on the distribution of motor vehicle fuel used or usable in propelling vessels during the previous fiscal year. The report shall list the special project or use, project location, amount of money allocated or expended, the source of funds allocated or expended, and the relation of the project or use to boating activities.*

~~(b)~~

(c) The money in the fund shall also be available, upon appropriation by the Legislature, to the State Water Resources Control Board for boating-related water quality regulatory activities.

SEC. 2. Section 670 is added to the Harbors and Navigation Code, to read:

670. (a) Subject to the schedule in subdivision (b), a person shall not operate a vessel *that is propelled by an engine, regardless of whether the engine is the principal source of propulsion*, unless the person has in his or her possession a vessel operator certificate issued by the department pursuant to this section.

(b) Subdivision (a) applies to a person pursuant to the following implementation schedule:

1 (1) On and after January 1, 2011: A person 20 years of age or
2 younger.

3 (2) On and after January 1, 2012: A person 25 years of age or
4 younger.

5 (3) On and after January 1, 2013: A person 35 years of age or
6 younger.

7 (4) On and after January 1, 2014: A person 40 years of age or
8 younger.

9 (5) On and after January 1, 2015: A person 45 years of age or
10 younger.

11 (6) On and after January 1, 2016: A person 50 years of age or
12 younger.

13 (7) On and after January 1, 2017: A person 60 years of age or
14 younger.

15 (8) On and after January 1, 2018: All persons, regardless of age.

16 (c) (1) The department shall issue a vessel operator certificate
17 to a person who provides the department with proof that the person
18 has passed a vessel operator test approved by the department.

19 ~~(2) If the department determines that adequate, approved vessel~~
20 ~~operator tests are not readily available online at minimal or no~~
21 ~~cost, the~~

22 (2) *The* department shall provide a vessel operator test on the
23 department's Internet Web site. The department shall provide links
24 from its Internet Web site to approved tests that are available
25 online. If the department contracts for the provision of services
26 ~~with an online course or~~ test vendors, the department shall contract
27 with more than one entity for that same service.

28 (d) A vessel operator certificate shall be valid for the life of the
29 person to whom it is issued.

30 (e) This section does not apply to any of the following:

31 (1) A person operating a vessel in accordance with Section
32 658.5.

33 (2) A person operating a vessel while under the direct
34 supervision of a person 18 years of age or older who is in
35 possession of a vessel operator certificate or who is not required
36 to possess a vessel operator certificate pursuant to subdivision (f)
37 or (g).

38 (3) A person operating a vessel in an organized regatta or vessel
39 race, or water ski race.

1 (4) A person operating a vessel who is in possession of a *rental*
2 vessel ~~rental~~-operator certificate.

3 (5) A person operating a rental vessel, except for a personal
4 watercraft, who is over the age of 16, while under the direct
5 supervision of a person 16 years of age or older who is in
6 possession of a rental vessel operator certificate.

7 (6) A person operating a personal watercraft who is over 16
8 years of age, while under the direct supervision of a person 18
9 years of age or older who is in possession of a rental vessel operator
10 certificate.

11 (f) This section does not apply to a person operating a vessel
12 who has a valid marine operator license issued by the United States
13 Coast Guard.

14 (g) (1) On and after January 1, 2011, a person who provides a
15 vessel *that is propelled by an engine, regardless of whether the*
16 *engine is the principal source of propulsion*, for rent in California
17 shall require that the renter or operator of the rental vessel show
18 proof of possession of a vessel operator certificate, before renting
19 the vessel. If the renter or operator of the rented vessel does not
20 possess a vessel operator certificate, the rental agent shall provide
21 the renter or operator of the vessel with a rental vessel operator
22 certificate developed or approved by the department and a map of
23 the waterway the renter or operator indicates is the location of
24 intended operation.

25 (2) The rental vessel operator certificate shall be provided only
26 to a person who takes and passes a rental vessel operator course
27 that is developed or approved by the department for the purpose
28 of this section. The rental vessel operator course shall be tailored
29 to and recognize the vessel rental situation, include information
30 specific to the type of vessel and the type of waterway, and provide
31 information concerning state boating laws, operating instructions,
32 equipment operation, and safety information.

33 (3) A person who rents a vessel and is otherwise required to
34 possess a vessel operator certificate may instead possess the rental
35 vessel operator certificate and may operate a rental vessel in
36 California for a period of not more than 30 days from the initial
37 rental date.

38 (h) A person who violates this section is guilty of an infraction,
39 and subject to a fine of not more than one hundred dollars (\$100)
40 upon conviction of an initial violation of this section, ~~to a fine of~~

1 not more than two hundred fifty dollars (\$250) upon conviction
2 of a second violation of this section, and ~~to a fine of~~ not more than
3 five hundred dollars (\$500) upon conviction of a third or
4 subsequent violation of this section. In addition to the fines
5 imposed by this subdivision, a person convicted of violating this
6 section shall be ordered by the court to complete and pass a boating
7 safety course approved by the department as provided in Section
8 668.1. The fine shall be waived, less a transaction fee, if the vessel
9 operator presents information that the court or a state or local
10 agency approved by the department determines the person had a
11 valid vessel operator certificate at the time of the citation. The
12 money received by the state from the fines paid pursuant to this
13 subdivision shall be deposited in the Harbors and Watercraft
14 Revolving Fund and expended by the department, upon
15 appropriation, to carry out this section. A person who has been
16 ordered by the court to complete and pass a boating safety course
17 pursuant to this section shall submit to the court proof of
18 completion and passage of the course within seven months of the
19 time of his or her conviction. The proof shall be in a form that has
20 been approved by the department and that provides for the ability
21 to submit the form to the court or a state or local agency approved
22 by the department through the United States Postal Service or other
23 certified means of transmission. If the person who has been
24 required to complete and pass a boating safety course is under 18
25 years of age, the court may require that the person obtain parental
26 consent to enroll in the course.

27 (i) The department, on or before December 31, 2009, shall
28 develop the vessel operator certificate and rental vessel operator
29 certificate to be issued pursuant to this section.

30 (j) On or before December 31, 2015, and on or before December
31 31 of each subsequent year, the department shall prepare a report
32 regarding the total number of certificates issued and the correlation
33 between certificates and the number of vessel accidents, injuries,
34 and fatalities.

35 (k) This section shall remain in effect only until January 1, 2021,
36 and as of that date is repealed, unless a later enacted statute, that
37 is enacted before January 1, 2021, deletes or extends that date.

38 SEC. 3. No reimbursement is required by this act pursuant to
39 Section 6 of Article XIII B of the California Constitution because
40 the only costs that may be incurred by a local agency or school

1 district will be incurred because this act creates a new crime or
2 infraction, eliminates a crime or infraction, or changes the penalty
3 for a crime or infraction, within the meaning of Section 17556 of
4 the Government Code, or changes the definition of a crime within
5 the meaning of Section 6 of Article XIII B of the California
6 Constitution.

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